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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,113	07/10/2001	R. Terry K. Baker	1.902.12	8204
26000	7590	06/17/2004		
HENRY E. NAYLOR & ASSOCIATES P.O. BOX 86060 BATON ROUGE, LA 70879-6060				
			EXAMINER HENDRICKSON, STUART L.	
			ART UNIT	PAPER NUMBER

1754

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

9/9-2113

Applicant(s)

Baker

Examiner

Hebick

Group Art Unit

1151

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 4/11/04
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 9-20 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 9-20 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 1754

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 9-11, 15-17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Audier et al. article.

Audier teaches on pgs. 220-221 and 223 in particular conical-faceted shaped nanotubes, which are crystalline. Although the product is not described identically, no differences are seen due to the similarity in synthesis and structure reported. The surface groups are present by virtue of the well known reactivity of edge groups with air.

Claims 11-14, 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Audier et al. taken with Kaner et al.

Audier does not explicitly teach surface groups, however Kaner teaches introducing groups to functionalize the fibers to make them more useful. Note in particular column 10; the examiner takes Official Notice that the claimed groups are old and known and described as groups on carbon fibers.

Claims 9-11, 13-17, 19, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez et al. 5653951.

Rodriguez teaches in columns 3 and 11 what appears to be the same product; choosing to have the planes aligned with the fiber axis is an obvious expedient, as it is suggested by the reference. The surface groups are present by virtue of the well known reactivity of edge groups with air.

Art Unit: 1754

Claims 9-11, 13-17, 19, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al. 5618875.

Baker teaches in column 11 what appears to be the same product; choosing to make the planes parallel to the fiber axis is an obvious expedient, as it is suggested by the reference. The surface groups are present by virtue of the well known reactivity of edge groups with air.

Applicant's arguments filed 4/14/04 have been fully considered but they are not persuasive.

Audier physically depicts the claimed structure, so the arguments are not accepted. Applicant can scarcely prove that the disclosed synthesis is the 'only' one that works- unless all are tried.

Rather, the synthesis of the references should be duplicated and the product analyzed in a Declaration.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (571) 272-1351.



Stuart Hendrickson
examiner Art Unit 1754